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## Judiciary Committee

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### SSB 6060

**Title:** An act relating to unlawful detainer actions based on nonpayment of rent.

**Brief Description:** Addressing unlawful detainer actions based on nonpayment of rent.

**Sponsors:** Senate Committee on Judiciary (originally sponsored by Senator Kline).

#### Brief Summary of Substitute Bill

- Changes procedures applicable to an unlawful detainer action in which the tenant is required to pay rent into the court registry or submit a statement why rent is not owed, including procedures regarding the notice that must be served and when the tenant must respond.

**Hearing Date:** 2/27/08

**Staff:** Trudes Tango (786-7384).

#### Background:

The Residential Landlord-Tenant Act (RLTA) governs the relationship between landlords and tenants of residential dwelling units. The landlord may terminate a tenancy if the tenant fails to substantially comply with the tenant's duties, such as paying rent.

The landlord may bring an unlawful detainer action, which is a court process to evict the tenant. The landlord must serve the tenant with an unlawful detainer summons and complaint, which must designate a specific date by which the tenant must respond. The deadline date must not be less than seven days nor more than 30 days from the date of service. If the tenant does not respond by the specified date, the court may issue a writ of restitution (an order directing the sheriff to evict the tenant). The landlord may serve the summons and complaint on the tenant before filing the action with the court.

When the unlawful detainer is based on the failure to pay rent, the landlord may also use another process specifically created for nonpayment of rent actions. This optional procedure requires the tenant to pay into the court registry the amount of rent due or submit a statement to the court

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denying that rent is owed. The tenant must comply with this requirement within seven days after service of a filed summons and complaint or, in the case of an unfiled summons and complaint, within seven days after delivery of the written notice to the tenant. The deadline date to comply with the requirements and the deadline date to respond to a summons and complaint may differ.

Failure to comply with the requirement to pay rent into the court registry or submit a statement of why rent is not owed is grounds for eviction without a hearing. However, the issuance of a writ of restitution does not affect the tenant's right to a hearing to contest the amount of rent allegedly due. The notice of this alternative procedure is contained in the eviction summons and must be substantially in the form provided by statute.

**Summary of Bill:**

If a landlord uses the procedures requiring the tenant to pay rent into the court registry or submit a statement why rent is not owed, the landlord must file the eviction summons and complaint with the court. The landlord must serve notice of the requirements to the tenant in a separate notice from the summons and complaint. The notice form provided in statute is changed to reflect that it is a separate notice than the summons and complaint and to provide specific directions to the tenant.

The landlord must serve the notice on the tenant either: (a) with the filed summons and complaint; (b) anytime after the summons and complaint has been filed; or (c) before or with an order for a show cause hearing if the tenant has responded to the summons and complaint. The deadline date for the tenant to comply with the requirements must not precede the deadline date for responding to the summons and complaint. If the notice is served with the summons and complaint, then the deadline date to comply with the requirements and the deadline date to respond to the summons and complaint must be the same date.

If the tenant fails to comply with the requirements and a writ of restitution is issued, the tenant may request a hearing and an immediate stay of the writ. To obtain a stay, the tenant must make an offer of proof to the court that the landlord is not entitled to possession of the property. The court may grant the stay on conditions the court deems appropriate, but shall only grant the stay upon prior notice to the landlord as the court deems appropriate. The court may set the show cause hearing no later than seven days from the date the stay is sought or the date the tenant requested a show cause hearing. If the court determines that the writ should not have been issued, then the writ must be quashed and the tenant must be restored to possession.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.